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Joseph F. Hetz - Reg. No. 41,070

Name of Applicant, Assignee or  
Registered Representative

[Signature]  
Signature

Patent  
Our Case No. 10672-28

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

|                         |   |                 |          |
|-------------------------|---|-----------------|----------|
| In re Application of:   | ) |                 |          |
| Dhindsa                 | ) |                 |          |
|                         | ) | Examiner:       | Flanagan |
| Serial No.: 10/731,327  | ) |                 |          |
|                         | ) | Group Art Unit: | 3739     |
| Filed: December 8, 2003 | ) |                 |          |
|                         | ) |                 |          |
| For: Endoscope Valve    | ) |                 |          |
| Assembly and Method     | ) |                 |          |

**STATEMENT CONCERNING**  
**NONPUBLICATION REQUEST AND CERTIFICATION**  
**UNDER 35 U.S.C. § 122(b)(2)(B)(i)**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

The above-identified patent application was filed on December 8, 2003 along with a non-publication request pursuant to 35 U.S.C. § 1.22(b)(2)(B)(i). The above-identified patent application claimed priority as a continuation-in-part application to U.S. patent application serial no. 10/271,485, now U.S. Patent No. 6,786,865, filed October 16, 2002 and issued September 7, 2004 (the "485 application"), which itself claimed priority as a continuation-in-part application

to U.S. patent application serial no. 10/022,134, now U.S. Patent No. 6,666,818, filed December 12, 2001 and issued December 23, 2003 (the “‘134 application”), which itself claimed priority as a continuation-in-part application to U.S. patent application serial no. 09/761,784, now U.S. Patent No. 6,533,720, filed January 17, 2001 and issued March 18, 2003 (the “‘784 application”). The above-identified patent application included all of the disclosure of the ‘485 application, the ‘485 application included all of the disclosure of the ‘134 application, and the ‘134 application included all of the disclosure of the ‘784 application. The above-identified patent application claimed different subject matter than either the ‘485, ‘134, or ‘784 applications, and, accordingly, Applicant believed that the above-identified patent application was not directed to the same inventions disclosed in the ‘485, ‘134, and ‘784 applications.

A PCT patent application, serial number PCT/US02/05126, published as WO 02/56942, was filed on January 10, 2002, claiming priority to, and having the same disclosure as the ‘134 application. Also, a PCT patent application, serial number PCT/US2003/032463, published as WO 2004/034873, was filed on October 14, 2003, claiming priority to, and having the same disclosure as the ‘485 application. The ‘485 application was also published on January 15, 2004 as publication no. US-2004-0010183-A1. The claims of those PCT applications do not include the claims of the above-identified patent application. Applicant’s attorney believed that, at the time the above-identified patent application was filed, the term “invention,” as it appears in 35 U.S.C. § 122(b)(2)(B)(i), and the phrase “directed to the invention”, as it appears in 35 U.S.C. § 122(b)(2)(B)(iii), referred to “the claimed invention” of the above-identified patent application rather than its entire disclosure. Therefore, Applicant’s attorney believed that the invention disclosed in the above-identified patent application was not the subject of the PCT

patent applications. Accordingly, Applicant's attorney believed that Applicant had complied with 35 U.S.C. § 122(b)(2)(B)(i).

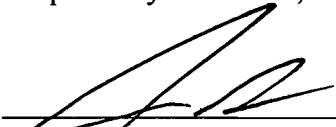
However, Applicant's attorney has since learned that the PTO may interpret the above laws differently based on the entirety of the disclosures of the patent applications at issue. Accordingly, the filing of the non-publication request pursuant to 35 U.S.C. § 1.22(b)(2)(B)(i) may have included an improper certification under 37 C.F.R. § 10.18. To the extent that this certification is improper, the improper certification arose through error and without deceptive intent.

However, in an abundance of caution, as the U.S. Patent and Trademark Office may disagree with Applicant's attorney's interpretation of the law, Applicant is submitting this statement to note that the certification in the non-publication request pursuant to 35 U.S.C. § 1.22(b)(2)(B)(i) may have been improper and are further submitting the attached Rescission of Previous Nonpublication Request 35 U.S.C. 122(b)(2)(B)(ii). The filing of this statement and Rescission is being made promptly after discovering the certification may have been improper. Further, as the certification was made subsequent to a foreign filing, it is our understanding that the above-identified patent application is not abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii).

Dated: September 21, 2005

Respectfully submitted,

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